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BANANA REPUBLIC, LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

NICK PEREZ; individually, and on behalf of
other members of the general public similarly
situated;

Plaintiff,

vs.

BANANA REPUBLIC, LLC, a Delaware limited
liability company; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 3:14-cv-01132-JCS

Honorable Joseph C. Spero
Courtroom G – 15th Floor

**STIPULATION REGARDING
DISCOVERY**

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1 **IT IS HEREBY STIPULATED** by and between Plaintiff Nick Perez ("Plaintiff"), by
2 and through his counsel of record, and Defendant Banana Republic, LLC ("Defendant"), by
3 and through its counsel of record, as follows:

4 **WHEREAS** on March 11, 2014, Plaintiff filed a collective action complaint against
5 Defendant alleging violations of the Fair Labor Standards Act;

6 **WHEREAS** on April 18, 2014, Plaintiff filed a first amended collective action
7 complaint alleging unpaid minimum and overtime wages in violation of the Fair Labor
8 Standards Act;

9 **WHEREAS** Plaintiff seeks to represent all current and former hourly-paid or non-
10 exempt employees employed by Defendant at a "specialty" or "factory" (i.e., outlet) "Banana
11 Republic" store in the United States at any time during the period from March 11, 2011 to final
12 judgment and who choose to opt-in to this action;

13 **WHEREAS** Erick J. Guzman filed a class action complaint for damages against
14 Defendant on July 12, 2012 in the Superior Court for the County of Los Angeles, case number
15 BC488069 ("the *Guzman* action") alleging violations of the California Labor Code for unpaid
16 overtime, unpaid meal period premiums, unpaid rest period premiums, unpaid minimum
17 wages, final wages not timely paid, wages not timely paid during employment, non-compliant
18 wage statements, failure to keep requisite payroll records, unreimbursed business expenses,
19 and unfair competition in violation of the California Business and Professions Code;

20 **WHEREAS** on September 11, 2013, Defendant filed a motion to deny class
21 certification in the *Guzman* action on the grounds Plaintiff Guzman cannot meet the elements
22 necessary to certify a class action under California law.

23 **WHEREAS** on February 24, 2014, Erick J. Guzman filed a motion for class
24 certification pursuant to California Code of Civil Procedure section 382, and seeks certification
25 of a class of all current and former hourly-paid or non-exempt individuals employed by
26 Defendant within the State of California at Banana Republic specialty or factory outlet stores
27 at any time during the period from July 12, 2008 to final judgment;

28 **WHEREAS** significant discovery has been conducted in the *Guzman* action, including

1 but not limited to the depositions of Defendant's persons most knowledgeable, percipient
2 witnesses, and putative class members; the production of thousands of documents, including
3 but not limited to employee handbooks, job descriptions, attendance policies, scheduling
4 policies, training materials, loss prevention policies, codes of business conduct, etc.

5 **WHEREAS** both the instant action and the *Guzman* action contain claims against
6 Defendant for failure to pay minimum and overtime wages based on the same factual
7 allegations;

8 **WHEREAS** the putative class members in the *Guzman* action who are or were
9 employed at Banana Republic stores in the State of California at any time during the period
10 from March 11, 2011 to the present are also alleged to be putative members of the collective
11 class in the *Perez* action;

12 **WHEREAS** counsel for Plaintiff, Lawyers for Justice, PC, is also counsel for the
13 plaintiff in the *Guzman* action;

14 **WHEREAS** counsel for Defendant, Orrick, Herrington & Sutcliffe LLP is also counsel
15 for Defendant in the *Guzman* action;

16 **WHEREAS** in the interest of avoiding duplicative discovery and conserving resources
17 in the *Perez* action, the parties wish to use relevant discovery in the *Guzman* action for the
18 *Perez* action.

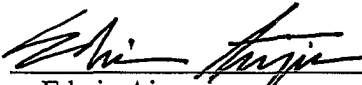
19 **IT IS HEREBY STIPULATED** between Plaintiff and Defendant, through their
20 respective attorneys of record as follows:
21

- 22 1. Documents, Testimony, Evidence and Information produced in the *Guzman* action
23 that is relevant to the allegations in the *Perez* action may be used in the prosecution
24 or defense of the *Perez* action. As used herein, "Documents" means (i) any
25 "Writing," "Original," and "Duplicate" as those terms are defined by California
26 Evidence Code sections 250, 255, and 260, and (ii) any copies, reproductions, or
27 summaries of all or any part of the foregoing. As used herein, "Testimony" means
28 all depositions, declarations, or other testimony taken or used in the *Guzman* action.
As used herein, "Information" means the content of Documents or Testimony.

- 1 2. Documents, Testimony, and Information that have been designated as
2 "confidential" by any party in the *Guzman* action may be used in the prosecution or
3 defense of the *Perez* action, but shall retain their "confidential" designation and be
4 subject to the Stipulated Protective Order in the *Perez* action.
5
6 3. The parties do not waive their rights to object to the competence, authenticity,
7 relevance, materiality, propriety, admissibility and any and all other objections and
8 grounds which would or could require or permit the exclusion of any Documents,
9 Testimony or Information produced in the *Guzman* action.
10
11 4. Nothing contained in this stipulation will be construed as a waiver of Defendant's
12 argument that prosecution of the *Perez* action and *Guzman* action simultaneously is
13 improper.


14 Dated: July 31, 2014

LAWYERS for JUSTICE, PC

15 By: 
16 Edwin Aiwanian
17 Attorneys for Plaintiff Nick Perez

18 Dated: July 31, 2014

ORRICK, HERRINGTON & SUTCLIFFE LLP

19
20 By: 
21 Jessica R. Perry
22 Attorneys for Defendant Banana Republic, LLC

23
24 Dated: 8/4/14

